

REMARKS

Claims 1-17 stand rejected. Claim 2 is cancelled and claims 18-19 are added by amendment. Accordingly, claims 1 and 2-19 are at issue.

Claims 1-4 and 8 stand rejected under 35 U.S.C. §102(e) as being anticipated by Gaillard (U.S. Pub. No. 20030028458). The reasons why Gaillard is not prior art, as set forth in responses filed on October 27, 2005, April 27, 2005, and August 9, 2004, are incorporated herein by reference. The amendments made in the present reply are for the purpose of expediting allowance of the application, and applicant does not give up his claim of novelty for the claims as originally filed.

Claim 1, as presently amended, defines patentable subject matter even if Gaillard is not withdrawn. Claim 1 recites inter alia, that the second electronic transaction device transfers value information comprising a virtual card to the first electronic transaction device. Gaillard, does not disclose transferring a virtual card to the first electronic transaction device, as the term virtual card is used in the present application. In the present application, a virtual card is described as follows: "A 'Virtual Card' is an electronic version of plastic cards. The Virtual Card is a digital representation of the information which would be conventionally stored on a magnetic stripe, or smart card chip, or bar code, etc. of a plastic card, along with the logo and branding information securely stored to prevent unauthorized duplication." Application, pp. 21-22. Transferring such a card is not disclosed in Gaillard. Instead, the cited portion of Gaillard appears to concern sending a transaction amount to a smart card. A transaction amount is not the same as a virtual card. Additionally, there does not appear to be any mention of transferring virtual cards in Provisional Application No. 60/214,436, filed June 27, 2000, which is the earliest of the priority documents for Gaillard.

Because Gaillard, and more particularly, the earliest priority document for Gaillard, do not disclose all of the elements for claim 1, claim 1 is not anticipated by Gaillard. Additionally, claims 3, 4, and 8 are not anticipated for the same reason.

Claims 4-7 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gaillard in view of Resnick, U.S. Pub. No. 20010001321. With respect to claims 4-7, these claims depend from claim 1, and Provisional Application No. 60/214,436 does not teach or disclose virtual cards, or transferring a virtual card from a second electronic transaction device to a first electronic transaction device. Resnick does not supply any such disclosure, either. Accordingly, neither Gaillard nor Resnick, either or alone or in combination, disclose the invention as claimed in claims 4-7, (incorporating the features of the underlying independent claim) those claims are not obvious in view of the cited publications.

With regard to claim 4, Gaillard does not teach or disclose a virtual card comprising an image of a card. Provisional Application No. 60/214,436 does not teach or disclose virtual cards. Because this provisional application filed June 27, 2000 does not disclose a virtual card, Gaillard can not be relied upon for this subject matter, and it could not have been obvious to combine the display of a transaction amount with a virtual card. Moreover, displaying a transaction amount does not suggest in one way or another that it would be advantageous to display an image of a virtual card.

Claims 9-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gaillard in view of Fougnyes, U.S. Pub. No. 20010021648. The remarks set forth with respect to Gaillard are incorporated herein by reference. Neither Fougnyes nor Gaillard teach or disclose a retailer electronic transaction device transferring the value purchased, information and subscriber information to a mobile phone operator, as claimed in claim 9. Instead, Fougnyes appears to rely

on a subscriber entering a card number into the keypad of a telephone. Fournies, ¶0060. Because neither Fournies nor Gaillard disclose the claimed step, claim 9 is not rendered obvious by these publications. Additionally, claims 10 and 11, which depend from claim 9, are also patentable over Fournies and Gaillard.

Claims 12-15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Arditti, U.S. Patent No. 5,991,413, in view of Gaillard. Applicants remarks concerning Gaillard are incorporated herein by reference. In summary, Provisional Application No. 60/214,436 does not teach or suggest virtual cards, and therefore does not teach or suggest downloading virtual cards to a retail electronic transaction device, or transferring virtual cards to a MO subscriber handset.

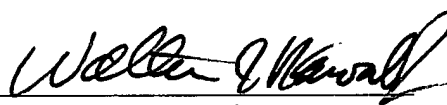
With respect to Arditti, the references to "virtual card" do not appear to be the same as the way the term virtual card is defined in the present application. As used herein, a virtual card is a digital representation of a physical card. Arditti uses the term differently (including physical virtual cards). Because neither Arditti nor Gaillard teach or suggest all of the elements of claim 12, claim 12 is not rendered obvious by Arditti and Gaillard. Additionally, claims 13-15 are not obvious for the same reason.

Claim 16 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Arditti in view of Gaillard, further in view of Fournies, U.S. Pub. No. 20010021648. The remarks concerning Arditti and Gaillard set forth above are incorporated herein by reference. Claim 16 is a dependent claim that claims that the step of downloading the virtual card to a retailer electronic transaction device occurs via a MO switch. In contrast, Fournies discloses a retailer stocking and selling conventional plastic cards. There are no virtual cards downloaded to a retailer. Accordingly, there can be no virtual cards downloaded to a retailer electronic transaction device via a MO switch. Indeed, there does not appear to be any disclosure of a MO switch transmitting

any information to a retailer in Fournies. Because neither Fournies, Arditti, nor Gaillard, either alone or in combination, disclose all of the elements of claim 16, claim 16 is allowable over the cited publications.

Claim 17 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Arditti in view of Gaillard, further in view of Tushie, U.S. Patent No. 6,202,155. Claim 17 depends from claim 12 and further recites that the steps of creating a virtual card comprises creating a plurality of virtual cards and the step of downloading the virtual card to a retailer electronic transaction device comprise downloading batches of virtual transaction cards to the retailer electronic transaction device. The remarks concerning Arditti and Gaillard set forth above are incorporated herein by reference. Tushie does not disclose transferring a virtual prepaid card to a retailer electronic transaction device. In contrast, Tushie appears to disclose transferring information to equipment to manufacture a "physical transaction card." Tushie, Col. 2, ll. 51-54). Because neither Tushie, Arditti, nor Gaillard disclose the additional element of claim 17, claim 17 is believed allowable for this additional reason.

Respectfully submitted,  
WELSH & KATZ, LTD.

By   
Walter J. Kawula, Jr.

Registration No. 39,724

April 17, 2006

WELSH & KATZ, LTD.  
Customer No. 24628